

**CITY OF MORGAN HILL
JOINT REGULAR CITY COUNCIL AND
REGULAR REDEVELOPMENT AGENCY MEETING
MINUTES – APRIL 4, 2007**

CALL TO ORDER

Mayor/Chairman Tate called the meeting to order at 7:00 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Grzan, Lee, Sellers, and Mayor/Chairman Tate

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

INTRODUCTIONS

The following promoted City employees were introduced by Police Chief Cumming: Troy Hoefling, Sergeant; Bill Norman, Corporal; Shane Palsgrove, Sergeant; and Mindy Zen, Corporal

Maintenance Supervisor Beale introduced new City hires: Sergio Marquez, Groundskeeper; Ismael Montes, Parks Maintenance Worker I; and Juan Zamora, Parks Maintenance Worker II.

PROCLAMATIONS

Mayor Tate presented a proclamation to Police Chief Cumming; Idalia Echegoyen, Dispatcher; and D'Arcy Gallagher, Dispatch Supervisor; proclaiming April 8-14, 2007 as *National Telecommunicators Week*.

Police Chief Cumming presented Idalia Echegoyen with a proclamation as the 2006 Dispatcher of the Year Award recipient.

RECOGNITIONS

CITY COUNCIL REPORT

Mayor Tate deferred his report as he recently returned from vacation and is just catching up with City business.

CITY COUNCIL COMMITTEE REPORTS

Council Member Grzan indicated that the Utilities & Environment Committee met this afternoon and found that the Committee will need to meet several times, over the next two months, regarding a number of issues. He stated that the Committee will be reviewing an extensive environmental plan as well as reviewing water/sewer rates. He said that the Committee will be bringing back recommendations to the Council soon.

Council Member Sellers said that the Community & Economic Development Committee met this evening. The Committee received a report/presentation from the Chamber of Commerce regarding potential changes to the City-Chamber's relationship in the development of economic development activities. The Committee will return later this month to the Council to discuss the process and in May, return with recommendations on how to evaluate this proposal moving forward as part of the budget process.

CITY MANAGER REPORT

City Manager Tewes reported on three items:

1. City Employees. He stated that it was a pleasure to introduce new employees. He said that during the budget process, the Council authorizes a specified number of positions. He said that with any larger organization, there are often turnovers. He was pleased that the City was able to fill positions in the parks crew prior to the spring/summer season when the community expects its parks and parkways to be maintained. He said that there are occasional vacancies within the police department. These vacancies arise when there are promotions from within the department that creates opportunities below. He said that of the 35 sworn positions authorized by the Council, 34 are currently filled, and that the City conducts continuous recruitments for police officers and dispatchers. He encouraged individuals to apply for these positions.
2. Consent Calendar. Item 1 – the City received favorable bids for the construction of the outdoor sports center that includes artificial fields, parking lot, and restroom improvements. The bids were so favorable that it is staff's belief that \$1 million may be returned to the park impact fund. He clarified that the recommendation under Consent Calendar Item 1 includes this item. He informed the Council that item 1 is a joint meeting of the City Council and the Redevelopment Agency. He requested the Council pull item 8 from the Consent Calendar in order to hear staff's recommendation, and to receive public comments regarding the adoption of the ordinance that establishes new regulations relating to the proximity of freeway signs. He indicated that in the past week, City staff received a letter from an interested property owner raising a series of issues. He stated that the City Attorney would appreciate the opportunity to review the issues before the Council takes final action on this matter. Staff recommends that it be allowed to return to the Council at a subsequent meeting following the City Attorney's review.
3. Group Homes. He indicated that at the last Council meeting, he was asked to provide an update to the Council on issues relating to the establishment of two new group homes in the northern part of the community/Madrone Area on Taylor Avenue and Ginger Way. He stated that the Department of Developmental Services has authorized contracts with non profit agencies to

establish group homes that would serve six or fewer individuals. He noted that under State law, the City cannot treat such uses any differently than it would treat any other single family use. He clarified that the City cannot establish special regulations for group homes. However, the City can require the group homes to meet all the requirements imposed on any other single family residence. As of this afternoon, plans have been submitted, reviewed, and have been resubmitted. He stated that no building permits have been issued for the two facilities as of 5:10 p.m. this evening. He addressed the nature of the two facilities: 1) A residential care facility for the elderly where care, supervision, and assistance will be provided along with the activities of daily living such as bathing and grooming. Also, to be provided are incidental medical services under special care plans. The facility is proposed to provide services to individuals 60 years of age and older; and individuals under the age of 60 with compatible needs. 2) An adult residential facility. This is a facility that provides 24-hour non medical care for adults ages 18-59 who are unable to provide for their own daily needs. Adults may be physically handicapped, developmentally disabled, and/or mentally disabled. He advised the Council that there was to be a meeting in the neighborhood to be attended by State regulators, non profit operators and the neighbors in order to learn more about the types of facilities, how they would be operated, and to hear the neighbors' concerns. State staff indicate that a number of concerns were raised by the neighbors, some of which the State can address (e.g., issues relating to parking). It was the view of the state representative that the neighbors were still opposed to the location of these facilities, regardless of the State exemption. It was his understanding that there will be subsequent meetings to address the issues that can be addressed.

CITY ATTORNEY REPORT

City Attorney Kern addressed the State law as it relates to group homes, and what a city is authorized to do. As a general law city, the City derives its powers from the State constitution and statutes. In 1969, the State passed the Lanterman Mental Retardation Act which implemented a state-wide policy that ended institutionalization of the mentally and physically disabled individuals, and attempted to integrate them back into society. Subsequently, there have been numerous state statutes that have passed to try and implement this type of program. In addition, federal laws have been passed to try to integrate handicapped and mentally/physically disabled individuals into society. In 2000, a State initiative (Proposition 36 – the Substance Abuse and Crime Prevention Initiative), was passed that included substance abusers. The effort was not to place substance abusers in jail, but to integrate them back into the community through halfway houses and group homes. She informed the Council that the Welfare and Institutions Code, Section 5116, has been reviewed by the courts and that the courts have ruled on its meaning; determining that it applies to both General Law Cities and Charter Cities. She said that it has been made very clear by the legislature and by the courts that the City is preempted from having any regulations over these group homes if they fit within the category as outlined in Section 5116. She stated that the regulations lie with the State licensing division; noting that these homes are licensed. She indicated that the State is the governmental avenue to whom residents can express their concerns. She clarified that the City has the authority to handle building permits or investigate nuisance issues similarly to what is done for other single family residences.

Mayor Tate noted that citizens have an administrative and political recourse through the State (e.g., Assemblyman John Laird, and/or State Senator Abel Maldonado).

OTHER REPORTS - None

PUBLIC COMMENT

Mayor/Chairman Tate opened the floor to public comments for items not appearing on this evening's agenda. No comments were offered.

City Council and Redevelopment Agency Action

ADOPTION OF AGENDA

Action: *On a motion by Council/Agency Member Sellers and seconded by Council/Agency Member Lee, the City Council/Redevelopment Agency Board unanimously (5-0) **adopted** the agenda as printed.*

City Council Agency Action

CONSENT CALENDAR:

Council Member Lee requested that items 1 and 2, and Council Member Grzan requested that item 1 be removed from the Consent Calendar. City Manager Tewes recommended that item 8 be pulled from the Consent Calendar.

Action: *On a motion by Council Member Sellers and seconded by Council Member Grzan, the City Council unanimously (5-0) **Approved** Consent Calendar Items 3-7, as follows:*

3. APPROPRIATE FUNDS FOR SUBSEQUENT REIMBURSEMENT AGREEMENT WITH LATALA FAMILY LP FOR LANDS OF LATALA

Actions: **Recognized** Additional Revenues and **Approved** the Appropriation of Funds for the Subsequent Reimbursement Agreement with Latala Family LP for Lands of Latala as Follows: 1) \$20,314.73 Increase 650-5710-37664 (Water Fund); 2) \$20,314.73 Increase 650-5710-42999 (Water Fund); 3) \$13,800.13 Increase 640-5900-37663 (Sewer Fund); and 4) \$13,800.13 Increase 640-5900-42999 (Sewer Fund).

4. RESOLUTION APPROVING A RISK MANAGEMENT PROGRAM

Actions: **Adopted** Resolution No. 6089, Approving a Risk Management Program.

5. FINAL MAP APPROVAL FOR MALLORCA (TRACT 9803)

Actions: 1) **Approved** the Final Map, Subdivision Agreement, and Improvement Plans; 2) **Authorized** the City Manager to Sign a Subdivision Improvement Agreement on Behalf of the City; Subject to Review and Approval by the City Attorney; and 3) **Authorized** the Recordation of the Final Map and the Subdivision Improvement Agreement Following Recordation of the Development Improvement Agreement.

6. COUNCIL RESOLUTION SUPPORTING GRANT FUNDING FOR BUTTERFIELD BOULEVARD EXTENSION

Actions: Adopted Resolution No. 6090, Supporting the Application for Grant Funds for the Extension of Butterfield Boulevard, Between Tennant Avenue and Watsonville Road.

7. ADOPT ORDINANCE NO. 1821, NEW SERIES

Actions: Waived the Reading, and Adopted Ordinance No. 1821, New Series, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE ZONING DESIGNATION FROM PUD (HC) (PLANNED UNIT DEVELOPMENT-HIGHWAY COMMERCIAL) TO HC (HIGHWAY COMMERCIAL) ON A 0.66-ACRE PARCEL (APN 726-43-004) ADJACENT TO AND SOUTHWESTERLY OF THE WALNUT GROVE DRIVE/LAUREL ROAD INTERSECTION (APPLICATION NO. ZA-06-06: LAUREL – JIFFY LUBE).**

City Council and Redevelopment Agency Action

1. AWARD CONTRACT FOR CONSTRUCTION OF OUTDOOR SPORTS CENTER AND APPROVE/AMEND CONSULTANT AGREEMENTS FOR PROFESSIONAL SERVICES

City Manager/Executive Director Tewes announced that this item is a recommendation to award a contract to construct two synthetic artificial fields, construct the parking lot improvements, and to build the restroom and ancillary improvements around the fields at the outdoor sports center. This recommendation would meet the Council's goal of providing space at the outdoor sports center to the community, and not just to the private organization(s) that use the facility on weekends. He informed the Council that staff sought and received several bids; all coming in below the engineer's estimate. Staff is recommending the Council/Agency Board award the contract to the low bidder.

Council/Agency Member Lee said that it appears as though the construction contingency is 38% of the proposed contract based on the numbers provided by staff. She inquired whether this percentage was a typical amount for contingencies.

Public Works Director Ashcraft responded that a typical contingency is 10%. However, it is staff's belief that there will be \$1 million remaining once the project is completed to put back into the park development fund. He informed the Council that enhancements will be included; however, there are items that take place during construction that will cost additional monies.

City Manager/Executive Director Tewes said that the 38+ acres were purchased over a three year period for approximately \$7.6 million by the Redevelopment Agency. He clarified that this is the first phase of a master plan previously approved by the Council for the full 38-acres. Although not yet funded, there is a master plan that suggests that the remaining 20 acres should be developed with fields.

Council/Agency Member Grzan noted that this project is being funded by Redevelopment Agency (RDA) dollars; indicating that RDA dollars are to be used to alleviate blight within the defined RDA zone. He requested an explanation as to how this project would alleviate blight in the downtown.

City Manager/Executive Director Tewes said that the City is required to use RDA funds for the purposes of the redevelopment plan that addresses a project area; clarifying that these funds are not only to be used in the downtown. He stated that the Council, acting as the Redevelopment Agency, adopted a resolution making all requisite findings in July 2001. He indicated that findings needed to be made to acquire the property. The City is able to use RDA funds because the City addressed the identified needs contained in the RDA plan approved by the Council and the voters. An identified need was the lack of recreational facilities as a blighting influence on the project area. He stated that by building this facility, the City is addressing a need identified in the RDA plan for additional recreational facilities.

Council/Agency Member Grzan inquired whether additional recreational facilities are being constructed to alleviate blighted conditions.

City Attorney/Agency Counsel Kern stated that all the plans and programs in the RDA plan are aimed at alleviating blight. This particular project was included in the RDA implementation plan to alleviate blighting conditions. Whether it eliminates all blight in all areas appears to be the concern.

Mayor Pro Tempore/Vice-chair Carr noted that the item before the Council/Agency Board is about the approval of a bid. He was pleased to see the bid is 22% below the engineer's estimate of January 2007, and that the City will be saving some of the anticipated costs for the project; returning monies to the parks fund.

Public Works Director Ashcraft informed the Council that staff has checked the references of the low bidder and found that the references have come back very positive. Although the contractor has not performed work in Morgan Hill, they have done a lot of work in neighboring cities. It has been indicated that the contractor did very good work on a similar project, delivered the work on time, and did not have an extensive list of change orders. Therefore, staff is pleased with the low bid received. He noted that all bids submitted were below the estimate as a result of a good bidding climate, and well understood-design plans. It was his belief that the list of enhancements will help control costs in the operations of the site, make the site more user friendly, and attract more individuals to the facility. Some of the enhancements will lower the long term operations and maintenance the costs of the facility.

Council/Agency Member Grzan reiterated his question as to whether this investment would alleviate the blighted findings within the downtown. He was not sure if this strategy alleviates blight because he does not see a concrete linkage between this facility resulting in a corresponding construction project that would alleviate blight in the downtown. He understands that the City is spending \$13.6 million on this project, and does not believe the millions of dollars being placed on a facility located miles away from the project alleviates the blighted conditions as defined in the downtown/project area or in the plan. He was looking for someone to explain the relationship between this investment, and a corresponding reduction in the conditions in the findings of the project area.

City Manager/Executive Director Tewes addressed the history of the project and the history of the RDA plan. He stated that in the late-1990s, the Agency proposed an RDA Plan, and found that there was significant public support for a variety of public facilities. The Agency ultimately amended the plan; identifying in the plan that the lack of recreational facilities was a blighting influence. The plan went to a referendum and the voters overwhelmingly approved the RDA plan that contained this finding. In 2001, the RDA was presented with the opportunity to acquire the property, and had to make formal findings that provided the linkage being sought by Council/Agency Member Grzan. These findings had to be made so that any subsequent expenditures complied with RDA law. He indicated that the Council directed staff to work with CYSA on leasing; noting that the property was leased. The Council/Agency Board asked staff and the Parks & Recreation Commission to develop a master plan. Approximately 13 months ago, at a Council goal setting retreat, the Council indicated that the City needs to move forward with converting the former soccer complex into a facility that would be useful to the community. He indicated that a number of council members suggested that the first phase of the project should include synthetic fields as these would allow the City to meet the community's needs, as well as the continued use by the CYSA organization. At that time, the Council established some goals that required the City to move forward. He stated that these goals were met at a workshop, and that a Council policy decision was made about whether or not to proceed with the project. He said that a few months later, the Council/Agency Board gave staff the direction to design and bid this phase in accordance with its policy direction at the time. All actions stem from the formal legal findings that were required to be made, and were in deed made by the RDA in 2001.

Council/Agency Member Grzan appreciated City Manager/Executive Director Tewes' historical and legal background on this project. However, he did not believe it answered his fundamental question as to whether the investment of these dollars into this facility would result in an equal/or a reduction in the findings within the project area, and the reduction in blight. Would this particular project encourage individuals to build and develop within the downtown in order to alleviate the blighted conditions found in the downtown?

Mayor/Chairman Tate noted that the Council/Agency Board is not just addressing physical blight. The Council/Agency Board is talking about crime, and building recreational facilities. He indicated that page 2 of the staff report states that the foregoing will remedy conditions which are conducive to crime and juvenile delinquency in the project for the benefit of the health, safety and welfare of residents, employees and taxpayers of the project area, and the immediate neighborhoods. It is not just about physical blight, but about how you prevent crime, and keep youth gainfully/positively occupied. If they are not, he felt that this was a form of blight.

Council/Agency Member Grzan felt that it needs to be indicated as to what percentage of crime occurred prior to the construction of the facility. He felt that an evaluative process needs to be implemented on the City's investment.

Mayor Pro Tempore/Vice-chair Carr noted that findings were made, and that there was a ballot measure that was passed overwhelmingly by the voters. There was public input and an extensive visioning process that brought the community together to talk about what the RDA would be doing with funding. He indicated that this project was one of the items included on the list that went to the ballot. He stated that he previously supported Council/Agency Member Grzan's inclusion of turf fields in the project in order to get more community use of the fields. He noted that the findings are in front of the Council/Agency Board. He felt that relating this back to the downtown would be a false premise because it is a project area that the RDA deals with, not just the downtown.

Council/Agency Member Grzan noted that it was stated that the sports complex would promote economic growth and development in the project area by creating jobs, and stimulating private investments in the area. He inquired whether the City would be measuring this outcome. He noted that there is an investment of \$13.6 million, and that according to the findings, the City is supposed to see some reciprocal economic growth and more jobs as a result of this action.

Council/Agency Members Sellers indicated that there are quantitative and qualitative factors to which you can measure. He stated that he was satisfied the City has effectively done both. Qualitatively – the City has had the hotel owners and other businesses come to the Council to state that without the sports complex they would not be in business. You can also look at this project in terms of crime. Anytime you look at crime, you can look at it in terms of prevention or active enforcement. Would there have been more crime in the community without the complex, or will there be less crime in the future? He was convinced that you can point to this, and that it is a substantive result. The qualitative issues are equally important in terms of the type of community that is being built. He felt that recreational projects enhance the quality of life for everyone.

Council/Agency Member Sellers said that one of the most venerable businesses in town produces sod and is well respected throughout the industry in this regard. This business owner weighed in with some interesting observations about synthetic fields in terms of what they have heard from the industry. He said that the City recently heard issues about health concerns about a public facility at a community center in San Jose, and other areas associated with an outdoor fountain. Similar issues have come up regarding synthetic turf. He inquired whether there were safeguards in terms of the installation of the facility where the City will be evaluating the facility to ensure that safeguards are in place to ensure the long term health and safety of participants. He indicated that there were suggestions made by members of the public on ways to do so, and wanted to make sure the City is doing so as part of the installation as well as in the maintenance and operation of the facility.

Public Works Director Ashcraft said that should the Council/Agency Board approve the staff report this evening, it would substantially increase the amount of time a contract construction inspector can spend on the project. Staff wants to make sure that the synthetic turf field is installed per the manufacturer's suggestion. It was his belief there would be the appropriate amount of inspection time dedicated to the project; resulting in a good project. Should the contractor not be doing a good job at any point in the process, there will be a representative from the City on hand to tell him to improve the project, or the City would not accept the project. He said that the letter referenced by the Grass Farm was produced at a seminar just for turf farms. He said that the research conducted by staff suggests that synthetic turf is a good product. If constructed appropriately, you can achieve many more hours of play on the same surface with synthetic turf than you can with natural turf. He noted that it is a City goal to increase the hours the fields are available.

Actions: *Council/Agency Member Sellers made a motion, seconded by Mayor Pro Tempore/Vice-chair Carr, to: 1) **Approve** Project Plans and Specifications; 2) **Award** Construction Contract to Interstate Grading and Paving, Inc. in the Amount of \$5,987,000; 3) **Authorize** Contingency Funds Totalling \$2,251,548 for this Project; and 4) **Authorize** the City Manager/Executive Director to Execute Various Consultant Agreements and Amendments for Professional Services During Construction per Memos; Subject to Review and Approval by the City Attorney/Agency Counsel.*

Council/Agency Member Lee inquired why the property was not brought into the RDA plan area if it was known in 2001 the City would be purchasing the property, and planning to construct a sports complex.

City Manager/Executive Director Tewes said that it was not necessary to be bring in the land into the project area as the City used the provisions of state law that allow resources to be used outside the project area as long as it is a benefit to the project area; noting that the findings are contained in the resolution.

Council/Agency Member Grzan indicated that it was stated that hotels could benefit from the outdoor sports complex; noting that the hotels addressed by Council/Agency Member Sellers are located outside the project area. It is being stated that the sports complex will promote economic development and development in the project area; stimulating private investment in the area. He questioned how the City can measure this, and how will the City be able to state that a \$13.6 million investment resulted in terms of investment dollars, number of jobs, a reduction of crime rate, etc. If the City is going to state that the City's investments are going to do these things, he requested that staff return with quantifiable measures. He expressed concern with the strategy as he did not believe it gets the City where it wants to be. He acknowledged that the strategy provided the City with recreational facilities. He has no questions that children will play on the fields. He did not believe this strategy promotes economic growth, and stimulates private investment within the project area. He stated that he would not support/approve the motion this evening based upon his comments.

City Manager/Executive Director Tewes said that these are the same type of findings that were required to be made when the Agency constructed the Community & Cultural Center, the Centennial Recreation Center and the new library. When the Council/Agency Board discussed this project at the retreat two years ago; it suggested the City move forward with synthetic fields, staff indicated that the findings had previously been made during land acquisition. Therefore, this has been a part of a long string of Council/Agency policy decisions. He stated that it is not possible to directly link the public investment to any specific private investment. However, it was his belief that success breeds success. The increase in investment already observed in the project is attributed to the efforts of the RDA to provide quality public facilities. He indicated that he hears stories every week about how individuals have invested in the community because of their appreciation of the public investments that have been made to date.

Vote: *The motion carried 3-2 as follows: Ayes: Carr, Sellers, Tate; Noes: Grzan; Lee.*

City Council Action

2. OUTDOOR SPORTS CENTER RENTAL RATES

City Manager Tewes indicated that the recommendation before the Council is from staff and the Parks & Recreation Commission that follows the direction provided by the Council/Agency Board on January 17, 2007. When the Council/Agency Board authorized staff to proceed with the design and construction of the project, it also established goals for cost recovery and usage of the facility in order to meet the goals of having community usage. He stated that the Council/Agency Board asked the Parks & Recreation Commission to return with specific rates for usage of the fields, consistent with the Council/Agency Board's established policies for the cost recovery goals. He indicated that these are the recommendations before the Council this evening.

Mayor Tate opened the floor to public comment.

Don Mott, representing Orchard Valley Youth Soccer League, informed the Council that this afternoon Mr. Rymer e-mailed him the proposed rental rates as recommended by staff. After talking to representatives from the Pop Warner Football league and the president of the Orchard Valley Soccer League, they find the rental rates to be acceptable as they are reasonable. It was his belief that they can get the maximum use out of the synthetic turf fields as a result of utilizing these rates. He addressed the note located at the bottom of the rental rate sheet that states that in order to qualify for the resident non profit rate; an organization must certify that 85% of the membership resides in Morgan Hill. He informed the Council that this requirement would place the Orchard Valley Youth Soccer League out of the running for the use of the fields at a resident-non profit rate. He indicated that the Soccer League is an amalgamation of two previous soccer leagues: one from Morgan Hill and one from Gilroy. He informed the Council that their membership consists of 1,150 youth players; indicating that there is approximately 61% residency from Morgan Hill, and that the remainder of the players come from San Martin, Gilroy and a few from south San Jose. He stated that a soccer complex located in Santa Clara utilizes a similar residency requirement; however, the residency requirement is 50%. He requested the Council reconsider the 85% residency requirement, and bring the percentage down to a rate that will allow utilization of the soccer fields.

No further comments were offered.

Director of Recreation & Community Services Rymer stated that at the January 2007 meeting, the Council indicated a 15% cost recovery in rates for organizations. At that point, staff looked at 60% usage of all available hours (5,100 hours per year). He informed the Council that staff used a 50% capacity and based the number from this. This resulted in a rate of \$4 per hour for the resident-non profit teams. He stated that the Parks & Recreation Commission recommends doubling this amount for non resident-non profit teams. Residents would be charged \$21 per hour (75% cost recovery), non residents would be charged full cost recovery of \$28 per hour, and for profit rates would be twice the amount of full cost recovery.

Council Member Sellers inquired whether the 85% non profit residency requirement was a policy decision, or was it merely a guideline/general rule.

Mr. Rymer said that the history behind the 85% goes back to July 2006 when the Council conducted a public hearing on the rental rates for the sports fields. At that time, the recommendation from the Parks & Recreation Commission was to move the cost recovery rate from 65% to 85%. In order to remain consistent with this, staff applied the same criteria. He clarified that there was no intent to exclude user groups.

Council Member Sellers said that should the Council believe Mr. Mott's request was reasonable, it could be stated that 50% residency requirement would be acceptable as long as the Parks & Recreation Commission has the opportunity to evaluate this percentage rate, and return with issues that might arise should the policy be changed.

Mr. Rymer informed the Council that a couple of the Parks & Recreation Commissioners were strong in their support of the 85% residency requirement. He indicated that staff has not surveyed all user groups to determine how many would fall within the various percentage of the residency requirements. Staff would need to determine user group's residency make up before taking the discussion to the Parks & Recreation Commission. However, the Council could adopt the rates this evening.

Council Member Grzan indicated that he would agree to approve the recommendation as outlined by staff. However, he recommended that Mr. Mott and other user groups go back to the Parks & Recreation Commission to address their concerns. Should the Parks & Recreation Commission believe it wants to make another recommendation at a later date, they can return to the Council to indicate that they reconsidered based on the additional input received; recommending/not recommending changes. He felt uncomfortable in making any changes at this time based upon the recommendation and review of the Parks & Recreation Commission.

Mayor Tate indicated that this is a unique situation as the Council would like the fields to be utilized by the City's residents; giving Morgan Hill residents priority. However, the City has a great sports field because there is competition and integrated teams within the area. It was his belief the City should find a way to accommodate the local youths playing in the Orchard Valley Youth Soccer League.

Mayor Pro Tempore Carr stated that he has been a strong advocate to fund priorities for local youths. It was his understanding that Orchard Valley Youth Soccer League is the soccer organization in Morgan Hill. If the City has a policy that excludes Orchard Valley, the City is excluding Morgan Hill's youth; noting that there are approximately 600 Morgan Hill youth playing soccer with Orchard Valley such that should finances not work out, they may not have access to the site. He felt that this is a unique situation and that the Parks & Recreation Commission needs to take a look at the residency percentage. He did not know if the percentage needs to drop all the way down to a 50% residency requirement. He felt that 60% may be the appropriate residency percentage with a goal of increasing this percentage over a period of time.

Actions: *On a motion by Council Member Grzan and seconded by Council Member Sellers, the City Council, on a 4-0-1 vote with Council Member Lee abstaining, **Approved** the Proposed Outdoor Sports Center Rental Rates Effective October 1, 2007, Through December 31, 2008; requesting that the Parks & Recreation re-evaluate the residency percentage.*

8. ADOPT ORDINANCE NO. 1822, NEW SERIES - ZA 07-03: CITY OF MORGAN HILL – OFF-SITE SIGNS

Mayor Tate opened the floor to public comment.

Frank DeRose indicated that he is representing the DeRose Development LLC that owns approximately 8 acres of land in the Walnut Grove area. He reiterated the DeRose family's opposition to Ordinance No. 1822. Should the Council decide not to adopt Ordinance 1822, the DeRose family is ready to sit down with the City and all other interested parties in the Walnut Grove area to discuss how best to address signage in this area. He stated that the DeRose family believes the signage issues relate to the shared freeway and monument signs along East Dunne Avenue that might serve the PUD. He noted that the Council received a letter from Joshua Safran, representing the DeRose family, this week. City Manager Tewes informed the Council that it is staff's intention to evaluate the issues raised in the letter, and to bring the matter back to the Council for its consideration at a future date.

Actions: *On a motion by Council Member Grzan and seconded by Mayor Pro Tempore Carr, the City Council unanimously (5-0) **continued** the adoption of Ordinance No. 1822, New Series, to April 18, 2007.*

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Council/Agency Member Sellers and seconded by Council/Agency Member Grzan, the City Council/Agency Board unanimously (5-0) **Approved** Consent Calendar Item 9 as follows:*

9. **REGULAR CITY COUNCIL AND REDEVELOPMENT AGENCY MEETING MINUTES OF MARCH 21, 2007**

Action: **Approved** the Minutes as Submitted.

City Council Action

PUBLIC HEARINGS:

10. **ZONING AMENDMENT, ZA-07-04: CITY OF MORGAN HILL – DOWNTOWN PARKING EXEMPTION** – *Ordinance No. 1823, New Series*

Council Member Sellers stated that he has been advised that due to his home's proximity to part of this item, he would be stepping down and not voting on this item. He excused himself from the Council Chambers.

Community Development Director Molloy-Previsich presented the staff report on an ordinance that would extend the sunset date for an exemption to onsite parking requirements for commercial and office uses, and guest parking within the downtown area. She noted that the 2003 Downtown Plan calls for changing parking requirements in order to stimulate development in the downtown area. She said that a draft parking management strategy was prepared in 2005, but that there were still some uncertainties about the methodology and assumptions used in this study. Therefore, it was decided that instead of adopting permanent changes to the parking ordinance, the Council adopted a two-year exemption period while staff finishes the parking management strategy. Although staff has some information on parking in the downtown, staff does not have enough information. She indicated that the City will be updating the Downtown Plan, and working with property owners in order to further define their development for the coming year or two. She stated that staff is recommending the Council extend the parking exemption for two-more years. It is anticipated that by that time, the Council will have adopted the Downtown Plan update, the CEQA document, the parking strategy, and any permanent implementing ordinances affecting parking for the downtown.

Mayor Tate opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Grzan and seconded by Mayor Pro Tempore Carr, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1823, New Series.*

Action: *On a motion by Council Member Grzan and seconded by Mayor Pro Tempore Carr, the City Council **Introduced** Ordinance No. 1823, New Series, by Title Only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTION 18.50.027 BY EXTENDING THE SUNSET DATE FOR THE EXEMPTION FOR ON-SITE PARKING REQUIREMENTS FOR COMMERCIAL/OFFICE USES WITHIN THE DOWNTOWN AREA (ZA 07-04: CITY OF MORGAN HILL – DOWNTOWN PARKING EXEMPTION)** by the following roll call vote: AYES: Carr, Grzan, Lee, Tate; NOES: None; ABSTAIN: None; ABSENT: Sellers.*

Council Member Sellers resumed his seat on the Dais.

City Council Action

OTHER BUSINESS:

11. SANTA CLARA COUNTY LIBRARY'S MOVING PLAN FOR THE MORGAN HILL LIBRARY

Special Assistant to the City Manager Spier indicated that the Council requested that the Santa Clara County Library present a moving plan in order to identify the timeline and procedure for moving the items from the existing library to the new library. She informed the Council that the project is on schedule to turn the keys over for the new Library to the County Library system on June 8, 2007. She informed the Council that Deputy County Librarian Sarah Flowers was in attendance to address the Council on how the move will come about.

Sarah Flowers, Santa Clara County Deputy Librarian, stated that the Santa Clara County Library staff is grateful that the City is building this beautiful new library, and that they are looking forward to moving in. It is their belief that the move will take approximately five weeks. She addressed how services will be provided during the time the library is closed. She informed the Council that a grand opening will take place on July 21. However, should the move be completed prior to July 21, a soft opening will be held. In response to Council Member Sellers' question, Ms. Flowers said that there will be an investment in new books and materials, over time. She felt that the library collection is a good size, and that instead of being full on shelves in the new library, the shelves will be $\frac{2}{3}$ full.

Mayor Tate opened the floor to public comment. No comments were offered.

Action: *On a motion by Council Member Grzan and seconded by Council Member Sellers, the City Council unanimously (5-0) **Received** and **Filed** the Report by the Santa Clara County Library Regarding Moving Plans into the New Morgan Hill Library Building.*

City Council and Redevelopment Agency Action

OTHER BUSINESS:

12. FRIENDLY INN AND EL TORO YOUTH CENTER BUILDING POLICY STATEMENTS

Director of Recreation and Community Services Rymer indicated that on March 21, 2007, the Council conducted a workshop in regards to the goal relating to the public purpose for the Friendly Inn and the El Toro Youth Center building. He stated that the Council directed staff to return with policy statements for its consideration to help drive decisions in the future in terms of whom the likely tenants will be.

Mr. Rymer stated that staff recommends that the El Toro facility be dedicated to the community's youth and families; partnering with one organization or consortium of organizations who would deliver services to residents in the area. He informed the Council that one of the goals identified was to meet the needs of the youth that reside in the area. However, it is also important to realize that the building would be appropriate to serve the needs of all youth in the city. Focus would be given to educational assistance, youth leadership, recreation and other social services. The partner would receive a subsidized lease in order to operate this program on behalf of the City.

Mr. Rymer addressed the purpose of the Friendly Inn – to enhance the quality of community life. The City would agree to provide subsidized space for grassroots/non profit organizations. The groups would strive to meet identifiable community needs; realizing that the needs will continue to evolve over time. The Council would periodically review the needs to ensure that the tenants are meeting key concerns and issues within the community. He clarified that the uses are not intended to compete against the existing services being provided by the City. The City would be looking at the social service aspect in trying to meet other needs. He addressed the eligibility criteria for the use of the Friendly Inn. He informed the Council that he receive an e-mail from a representative with the South County Collaborative who has identified concerns in terms of the requirements being recommended by staff: 1) non profit status under the IRS or other appropriate designation; 2) that an agency is to be eligible for CDBG funding. He explained that the reason staff has identified this eligibility criteria is that it is an objective criteria that is already established that can be used to select future tenant. He felt it important to recognize that the eligibility requirements may eliminate some of the local organizations that may want to use the facility if they do not meet the second eligibility requirement being recommended this evening. 3) Demonstrate a history of working in the community; 4) ability to look at community needs and explain through a process how the agency would meet these needs; 5) consider how the organizations are helping meet the goals established by the Council; 6) looking at groups that plan to collaborate and partner with other organizations in order to leverage resources to reduce duplication of services; and 7) demonstrate a financial need to use the facility. He recommended the Council discuss these proposed policy statements.

Mayor/Chairman Tate opened the floor to public comment.

Erin O'Brien, Community Solutions, indicated that she looks forward to having conversations with City staff. She acknowledged that the El Toro Youth Center is a fabulous program, and is an asset to the community. She stated that Community Solutions is committed to doing everything it can to keep the

program in the community; partnering with the City. She noted that a requirement to be eligible to use the Friendly Inn is that the majority of services are to be provided to Morgan Hill residents at the facility. She noted that a lot of agencies do a lot of good work, but it is done at citizens' homes. She requested the Council give consideration to this. She indicated that not all social service groups have 501c3 status, and felt that they are an asset to the community, meet a need, and could benefit from the use of the space. She indicated that there are many more service providers in San Jose than there are in Morgan Hill. If the City is looking to build the capacity and bring others to Morgan Hill, they may not have worked in the community before. If a commitment exists to provide services in the community, she would like to see the space opened to these agencies as well. She noted that Dina Campeau, South County Collaborative, addressed the financial need category in an e-mail to Mr. Rymer. It was her belief that the spirit of what the Council wants to do is appreciated and that it was her belief that the criteria would strengthen the community.

No further comments were offered.

Council/Agency Member Grzan inquired whether the 501c3 status is something the City has to have. He noted that some of the organizations may be able to assist the City in providing services to the community who have not had prior use of the facility.

City Manager/Executive Director Tewes said that the point of the recommendation is that the organizations are to be non profit organizations. A typical way to demonstrate this status is by a certificate under one of the sections of the IRS codes. As stated in the recommendation, it states "or other appropriate designation relating to non profit status."

Council/Agency Member Sellers expressed concern with the eligibility criteria as it relates to CDBG funding eligibility. It was his belief that the vast majority of the organizations would be eligible, and that they would be going through an evaluation process. It could be that the City finds that an organization is not CDBG eligible, but may add value to the community. He stated that he did not want to preclude such an organization. He recommended that CDBG funding eligibility be given significant consideration, and that history in the community will also be a factor in the evaluation process. He wanted to make it clear that these are to be factors in the evaluation process, but that the City needs to stop short of stating that if an organization is not eligible for CDBG funding, or has not provided services in Morgan Hill before, that they would be precluded from participating. This criteria could eliminate some organizations using the facility that might otherwise perform good work in Morgan Hill. He suggested the Council adopt staffs' recommended action, but to direct staff to soften these two criteria requirements; softening the requirements in terms of a priority preference. He clarified that an organization could apply should it believe it meets other criteria, and that they provide a value to the community.

Mayor Pro Tempore/Vice-chair Carr noted that it was discussed that preference would be given to organizations that directly deliver services in this facility. He noted that a lot of these services do not actually take place in the facility where the office might be. He recommended that this also be softened.

Mayor/Chairman Tate recommended that the item raised by Mayor Pro Tempore/Vice-chair Carr be softened to eliminate the word "at" and replace it with "...through use of..." He clarified that this recommendation would stipulate that services do not need to occur in the facility, but that an organization needs to use the facility in order to deliver the services.

Action: *On a motion by Council/Agency Member Sellers and seconded by Mayor/Chairman Tate, the City Council/Agency Board unanimously (5-0): 1) **Adopted** the Recommended Policy Statements for the Friendly Inn and El Toro Youth Center Building; incorporating the three changes discussed above; 2) **Directed** the City Manager/Executive Director to Meet with Community Solutions and Discuss Sustainable Budget Strategies for the El Toro Youth Center; 3) **Directed** the City Manager to Solicit Potential Tenants According to the Recommended Eligibility Criteria; and 4) **Directed** the City Manager/Executive Director to Recommend a Final List of Tenants for City Council/Redevelopment Agency Consideration by July 2007.*

Redevelopment Agency Action

OTHER BUSINESS:

13. LOAN REQUEST FROM EL TORO BREWING

Executive Director Tewes advised the Agency Board that his daughter is employed by El Toro Brewing, and that the City Council's policy suggests that even the appearance of potential conflicts needs to be recognized. He indicated that he has not participated in the preparation or in the review of this item. He stated that he will be recusing himself from this item. He excused himself from the Council Chambers.

Business Assistance and Housing Services Director Toy informed the Council that this item is a request from the owners of the El Toro Brewing Company for a \$400,000 loan. Should the Agency Board approve this loan, it would be the Director of the Business Assistance and Housing Services, with the assistance of the City Attorney, who would negotiate and prepare the agreement. He stated that staff would return to the Agency Board with the agreement for approval. He presented a background on the sale of the former police facility to El Toro Brewing. He said that the owners of the El Toro Brewing Company are requesting financial assistance to fill the gap between their construction financing and their final financial costs. It has been indicated that cost overruns are beyond the owners' control and that they do not have the equity to fill the gap. He informed the Council that the owners have invested approximately \$1 million into the project that includes the purchase of the property. The owners of El Toro Brewing are requesting a short term, 5-year loan from the Agency. He indicated that the owners have tried to pursue other financing, but that they have been unable to acquire financing. The owners have indicated that time is of the essence. He stated that the project is eligible to receive Agency funding, and that it is consistent with assistance given to other projects such as the Gunther Brothers and Granary project located on Depot Street. He noted that when the City entered into the exclusive right to negotiate (ERN) agreement, as part of the transaction, the owners of El Toro Brewing indicated that they would not request financial assistance for the project. However, this was part of the ERN agreement, and is not included in the Disposition Development Agreement (DDA). He informed the Agency Board that should it agree to approve the gap financing, there is adequate security for the loan with an interest rate of approximately 5.5%. It appears that the owners of El Toro Brewing would be able to make payments, and pay off the loan at the end of the five-year period. It is being recommended that the owners of El Toro Brewery seek refinancing in 12 months.

Agency Member Grzan noted that it is stated, in the staff report, that one of the conditions was that El Toro Brewing would not require any financial assistance from the Agency. He inquired as to the reason for the inclusion of this condition.

Mr. Toy responded that at the time the City considered the sale of the former police facility, the City received proposals from two developers with competing proposals. El Toro Brewing Company's proposal indicated that they could pay \$650,000 for the building, and not require additional assistance. The other proposal indicated that they could only pay the Agency \$100,000 for the building with a project cost of \$2.5 million. An alternate scenario from the second proposal was that they could pay the Agency \$350,000 for the building, but would need financial assistance. At that time, there was a discussion of whether the building was worth more than \$650,000. The owners of El Toro Brewing indicated that they would pay the City \$650,000 and would not ask for additional financial assistance. However, if they need to pay the City more, they may need financial assistance. The City approved the \$650,000 purchase price with no additional financial assistance.

Agency Member Lee noted that the staff report indicates the appraised value of the building is at approximately \$2.5 million. She inquired as to the date of the appraisal.

Geno Acevedo indicated that the appraisal was prepared in May 2005.

Mr. Toy clarified that the bank has appraised the building with the improvements at \$2.5 million, and that they are willing to loan \$1.9 million (75% loan to value). He stated that the actual cost of the project, if you include all items, is at \$3.2 million.

Agency Member Grzan requested an explanation on how the Granary and Gunther Brothers project became eligible for assistance, what were the conditions, and how was the loan request similar to this one.

Mr. Toy said that the loans are similar in the sense of basing it on the loan amount. The Granary loan was for the renovation of an existing building in the amount of a \$350,000 acquisition loan at 3% for a five year period. However, the Agency provided the Granary with a façade grant, fee financing and financing of improvements related to the dayworker center. The Gunther Brothers project will be new construction with Agency assistance in the amount of \$462,000 at 4% interest for a five-year period of which approximately \$350,000 is to be used for tenant improvements. He informed the Agency Board that the Agency also provided them with a façade grant of approximately \$110,000. He said that it could be that other businesses may come forward to request loan assistance. He said that the Agency can review loan requests on a case by case basis. He said that staff is looking at the El Toro Brewing as a DDA agreement for a specific project. Should the Agency Board agree to approve the loan, the DDA would need to be amended in order to provide the assistance. Staff is not proposing to modify any existing commercial loans/rehab programs. He informed the Council that prime lending rates are at 7% - 7.5%. He felt that the Agency could charge the prime lending rate, but that staff looks at the City's borrowing rate plus ½% to handle the administrative costs related to the loan. Therefore, the City is not losing any money at the 5½% interest rate. He did not know if charging a higher interest rate would play into how the numbers would work. Should the Agency Board wish to consider a higher interest rate, staff could explore these discussions with the banks and El Toro Brewing.

Agency Member Grzan inquired how the City would work with the bank to ensure the City will be paid; noting that the bank will be looking to be paid as well. Should the bank not receive payment and they want to close on their portion, how this would affect the City?

Mr. Toy said that the Agency's loan would be in second position to the bank's loan. Should the bank foreclose on the loan, the Agency could carry the first loan in order to protect its position. Should the property go to auction, or should someone purchase the property, the sale price would cover the bank's note and the Agency's loan. He felt it important to note that this is a single use facility, and can only be used as a restaurant. Foreclosure would still result in having a restaurant in the downtown; a key condition of the Agency's desire to have an anchor tenant at one of the gateways to the downtown.

Chairman Tate opened the floor to public comment.

Geno Azevedo stated that the project represented to the City several years ago is what was delivered, and that what was delivered is better than what was initially conceptualized. He has approximately 50 employees, and stated that the business is exceeding their original projections; exceeding over \$600,000 in the first four months of operation. He informed the Agency that after having the project 80% complete, change orders started to mount rapidly. It was his belief that construction financing would be extended, but that he did not find out until towards the end that the financing would not be extended. He informed the Agency that he tried to seek conventional financing, but was unsuccessful because they were told the business was not a start up business or a new business. He is looking for total financing; filling the bridge for what he owes the contractor and what Heritage Bank will fund. If the loan is approved by the Agency, he would agree to meet with City staff and the bank to reach a mutually agreed upon agreement. Should the loan not be approved, it would result in complications to the business (e.g., further liens); resulting in the inability to secure any other type of conventional financing. He agreed to seek financing within 12 months, if so conditioned by the Agency. He felt that the business will qualify for a loan once additional equity builds up in the next few months in order to leverage the ability to refinance. He agreed to proceed with due diligence in seeking a loan; reporting back to the Agency on his ability to secure a loan.

No further comments were offered.

Agency Member Grzan agreed to approve a one year loan; directing the applicant to make every effort to find another agency to finance a loan. Should the applicant be unable to find another agency in the one-year time period, the Agency would look at other options. He expressed concern that one of the conditions of the project that El Toro Brewing stated at the time of the sale of the building was that they would not require financial assistance from the Agency; noting that this was stipulated as part of the agreement. He understands that circumstances change; therefore, he is recommending a one-year loan term, instead of a five-year loan term.

Agency Member Lee said that she tends to agree with Agency Member Grzan regarding the condition stipulated that no financial assistance would be sought from the Agency; noting that this condition was a part of the ERN. She indicated that the project is not in the same phase at this time. On the other hand, she felt that one of the benefits of the Redevelopment Agency is to be able to grant businesses loans that are to be repaid in order to be able to assist other businesses. She indicated that she was leaning toward approval of the loan, but was concerned about the prior condition of not seeking financial assistance.

Vice-chair Carr felt that this is an appropriate use of Redevelopment Agency dollars. He stated that when you think about economic development, you think about ways of sustaining existing businesses in Morgan Hill. The Redevelopment Agency's role is to keep businesses in operation, help existing businesses, help start up businesses, and further the City's goals. He felt that the project has been delivered as suggested by the applicant some time ago. He acknowledged that it was stipulated that there would not be additional financial assistance required as part of the negotiations of the ERN. He noted that it took more to renovate the building than what anyone thought it would; therefore, the developer is in this position today. In the best interest of a project the City promoted from the beginning, as well as promoting economic development, he recommended moving forward with the approval of the loan. However, he was not sure about a one-year loan as it places more risk on the loan than he would like to see. He indicated that a lending institute may be concerned about the one-year loan term with the City, and may hurt the Acevedo's ability to obtain refinancing in 12 months.

Chairman Tate felt that Agency Member Grzan made good points about a one year term. He suggested a compromise by having the applicant return to the Agency within a year, granting a couple years extensions beyond the one-year, if necessary. He agreed that financial assistance was not a part of the original agreement, and felt that the Agency needs a check point to hear whether the Acevedos can obtain refinancing within a year. He would like to see action taken within a year.

Agency Member Grzan supported reviewing the loan within the year to see if the Acevedos are seeking/qualifying for a loan. He expressed concern that the Agency would be taking an action that a bank is not willing to do. There may be a risk in granting the loan; noting that this is the public's money. Unlike a bank who can afford to weigh in on the risk, this is an action he is not comfortable taking. He indicated that he would be willing to grant a one-year loan. Reviewing the loan within the one year period would allow the Agency to extend the loan or take a different action, if needed.

Action: *Agency Member Grzan made a motion to **approve** a one year loan; revisiting the matter within a year to determine if the loan needs to be extended. The motion failed for the lack of a second.*

Vice-chair Carr inquired what wording could be added to a motion that would incorporate a check in to have the applicant return to the Agency to advise as to the status of seeking financing within 12 months.

Chairman Tate recommended the approval of a 3-year loan term, having a check point with the Agency within a year so that the extension can occur at that time, if justified.

Agency Member Lee stated her support of a 3-year loan as a compromise as this would give the Acevedos time to seek refinancing of the loan.

Action: *Vice-chair Carr made a motion, seconded by Agency Member Lee, to **Direct** Staff to Prepare and Negotiate a three-year term Agreement with a one-year checkpoint by the El Toro Brewing Company; Subject to Review and Approval by the Agency Counsel.*

Agency Member Sellers noted that three members on the Redevelopment Agency Board were on the Council when the original decision was made. He felt that this is a great project and facility. He indicated that he reviewed the minutes relating to the purchase of the former police station by El Toro

Brewing Company. In evaluating the original process, one of the criteria had to do with financing for the project. In order to be consistent, he indicated that he would decline support of the motion. However, he understands that there is support of the request. He acknowledged that this would be a long term facility.

Vote: *The motion carried 4-1 with Agency Member Sellers voting no.*

City Council Action

OTHER BUSINESS:

14. REVIEW OF COUNCIL POLICY, CP-06-02: CITY COUNCIL & REDEVELOPMENT AGENCY MEETING SCHEDULE

Council Services and Records Manager Torrez informed the Council that a workplan item for Fiscal Year 2006-07 is to review Council and Administrative policies. In reviewing Council Policy, CP-06-02, staff wants to confirm that this policy still reflects the Council's policy relating to legislative recesses.

Mayor Tate opened the item to public comment. No comments were offered.

Action: *Council Member Grzan made a motion, seconded by Council Member Sellers to Adopt staff's recommended meeting schedule per Council Policy, CP-06-02.*

Mayor Tate said that in reviewing the policy a few months ago, he was surprised about the rigidity of canceling the two August meetings. He recommended that there be flexibility about canceling the summer meetings as identified/contained within the policy, based on the Council's calendar as they are put together. He recommended that the Council review the meeting schedule in the spring and decide for the year what it would like to do for that given year.

Council Member Sellers concurred with Mayor Tate's suggestion. He felt that this year, the decision is easy because the first meeting in July falls on the Fourth of July. He noted that there are five weeks in August; therefore, those Council members with children going back to school on August 22, 2007 will have some flexibility to plan their August schedules. He agreed to the recommendation of reviewing the summer meeting schedule, and supported amending the motion to stipulate reviewing the meeting schedule every spring.

Action: *Council Member Grzan made a motion, seconded by Council Member Sellers to Amend the motion to stipulate that Council Policy, CP-06-02 is amended to provide for a review of the summer meeting cancellation in the spring of each year. The motion carried unanimously (5-0).*

15. ENDORSEMENT OF SENATE BILL (SB) 840, UNIVERSAL HEALTH INSURANCE

Council Member Grzan requested Council endorsement of Senate Bill 840, the universal healthcare insurance plan. He noted that the State of California and this country is in a healthcare crisis for a number of reasons. He indicated that individuals are uninsured today because of the continuing rise in healthcare coverage; noting that it continues to climb each and every day. He indicated that 80% of

Americans state that they are dissatisfied with the high national healthcare spending. He stated that a new survey shows that more than 25% state that housing problems resulted from medical debt; including the inability to make rent and mortgage payments. He said that elderly couples will need nearly \$200,000 in savings in order to pay for basic medical coverage with many experts believing that this figure is conservative and that \$300,000 would be a realistic figure. He indicated that 40-47 million Americans are without health insurance. He felt that there would be significant benefits to the City of Morgan Hill, as an employer, for the residents of Morgan Hill, and the residents in the State of California with the passage of SB840. He indicated that many cities, counties, and public/private agencies are being approached to endorse health insurance reform; specifically in SB840 as it provides for the most far reaching and beneficial health plan versus other proposals. He felt that the other plans being proposed will be a shortfall of what is needed, and will only delay the inevitable of moving where we need to go. He noted that health care spending is four times more than the amount spent on national defense. He said that in the United States, 16% of the gross national product is spent on healthcare.

Council Member Grzan did not believe that any individuals in America should be denied health care because of the inefficient way healthcare is administered. He felt that SB840 would provide health care at significantly reduced cost. He requested the Council endorse SB840, and send a message to our legislators that the City wants healthcare reform; one that far reaches and does the job it is intended to do.

Mayor Tate opened the floor to public comment.

Judy Kinker informed the Council that she has been a resident of Morgan Hill for 27-years, serves as co-president of the American Association of University Women (AAUW) in Morgan Hill and serves on the board for the South County California Retired Teachers Association. Passage of a universal health plan would provide for better coverage than currently exists. She identified the savings to individuals and school districts with the adoption of SB840 and identified the groups who have endorsed SB840. It was her belief that the residents of Morgan Hill would be strongly in favor of the Council endorsing SB840 as it would provide reasonable quality healthcare for everyone, and that there would be significant cost savings involved.

Lynn Penek-Holden stated that although she is not a Morgan Hill resident, she is a member of Healthcare for all California and that she has been working on this issue for approximately 13 years. She indicated that SB840 has gone through several iterations, and has been analyzed by a financial analyst group. The analyst group found that there would be approximately \$200 billion saved in the first year alone. She noted that California currently spends \$186 billion a year on healthcare. She stated that 30% of healthcare insurance monies go into the pockets of health insurance companies in the form of advertising and profits. Medicare's overhead is 2-3%. She felt that there are a lot of items that can be recaptured with no increased spending necessary. She informed the Council that there are 41 co-authors for this bill, and that the bill has been passed by both houses of the legislature last year. She stated that Senator Perata and Assemblyman Nunez are both co-authors, even though they are moving with their own health reform plan. However, they have clearly stated that this is the state of the art gold standard for healthcare reform.

Barbara Horning, past president and current board member of the Santa Clara County Chapter of the Older Women's League, current president of the Mid Peninsula Division of the California Retired Teachers Association, and a member of the local Chapter of the AAUW, informed the Council that these organizations support SB840. She requested Council support/endorsement of SB840, Healthcare for All. She felt that there are benefits associated with this bill for the City as an employer, and for every resident in the City. She stated that SB840 would create a single universal health insurance pool, and will allow the State to eliminate \$20 billion in administrative costs, and profits to private insurances. It would also save money by purchasing medicine in bulk; using healthcare technologies to eliminate expensive errors, and provide everyone in California with the healthcare needed, when needed.

Carol Dalrymple informed the Council that she is a member of Healthcare for All, a statewide grass root organization in support of SB840. She stated that SB840 would provide comprehensive, affordable health insurance coverage for every resident in California. She felt that the plan is rational, human, economically sustainable, and will have benefits that would accrue to the resident of Morgan Hill and the City of Morgan Hill, as an employer. She urged the Council's yes vote on the resolution.

Anne Roesnzweig, Morgan Hill resident and labor lawyer, stated that she spends a lot of time reading about healthcare issues. She addressed her/her family members' past and current healthcare needs. She said that SB840 does not have the problem of tying healthcare coverage to employment. She urged the Council to take a stand in support of SB840, along with other cities.

Erin O'Brien indicated that the County of Santa Clara is running up to \$238+ million deficit this year. One of the pieces involved in the structural deficit is the cost of the Valley Medical Center (VMC). She said that a good part of the challenge in the VMC is the number of uninsured/under insured individuals that they serve, and that the County has committed to provide healthcare services. She informed the Council that there will be over 8,000 seriously mentally ill adults in Santa Clara County alone who are uninsured, and will not be able to receive services. This will have a major impact on the quality of life for everyone, and that this is a ripple affect of reduced services with the lack of universal health coverage. She noted that most of us are fortunate to have resources and insurances. However, her agency serves a lot of individuals with no insurance coverage. These individuals do not seek medical assistance until it is critical; ending up in emergency rooms where it is more costly and very late in the process/illness. She urged the Council to support SB840 as it will have big impacts on the County, the community and the citizens we all care so much about.

No further comments were offered.

Council Member Sellers said that he has spent some time researching this issue, and spent some time on the Healthcare for All website. He agreed that this is a significant issue and noted that there is a video that addresses this issue that can be displayed on the public sites as an informational item. This would be a great opportunity to get the information out. He noted that the Council has a long standing policy not to formally endorse bills. He did not believe it would be appropriate to formally endorse SB840 as it would open a Pandora's Box for the Council to undertake. He agreed that SB840 and other related healthcare issues need to be addressed. While he appreciates the opportunity to hear from individuals and for the Council to do its part, he did not believe Council endorsement of SB840 would be the appropriate action to take, but that the airing of the issue is critical and important to do.

Mayor Pro Tempore Carr said that last fall he was able to hear/see a presentation by Healthcare for All. He stated that this was a good opportunity to learn more about the Senator's program. It was his belief that all Council members would state that they are supporters of healthcare reform in some form or another. He does not know if universal healthcare may be the means of reform. Because there are too many questions for the City of Morgan Hill, he finds it inappropriate for him to take a position on the City's behalf endorsing SB840 one way or the other. He would also hate to ask staff to evaluate this issue. He noted that the City has a lot on its plate, and that the Council has a very aggressive set of goals it established at the beginning of the year. Evaluating state and federal measures was not identified as a goal that the Council would dedicate staff time to review. He felt that it was great that Council Member Grzan brought this issue to the attention of the Council so that more individuals will hear about this issue and become more involved. He felt that it would be difficult for the Council to ask staff to spend time researching this issue for council members to take a position on SB840.

Mayor Tate noted that Council Member Grzan stated that SB840 was the most beneficial approach to healthcare. Although he does not rebuke this statement, he does not know this yet. He stated that he needs to understand why SB840 would be the most beneficial healthcare reform. The Council has received factual comparisons between the plans, but does not believe the Council has the pros and cons on the matter. He agrees with Mayor Pro Tempore Carr that it is the individual responsibility of Council members in collecting more information and coming up with their own positions on SB840. He stated that he has not developed a position to state that he endorses/does not endorse SB840, and would be abstaining on any motion presented.

Council Member Lee agreed that there are a lot of issues for and against SB840. She indicated that she has not yet had the opportunity to review all the issues. Without more research, she was not prepared to take a position this evening; noting that there has been a long standing history of council members not taking a position on this matter.

Council Member Grzan felt that it was a shortsighted step, and that something needs to be done about healthcare in America, in California and in Morgan Hill. He noted that there is a significant ramification and significant savings for the City as it provides healthcare for its employees. He felt there is a potential for other agencies, school districts and the City to have significant savings in healthcare costs. Reduction in the City's costs can result in reduced costs to the residents of Morgan Hill, or it can lead to increased services to which everyone would benefit. He was saddened that the Council has decided that it does not want to address this issue. He stated that taking a position as a Council is an appropriate action to extend healthcare to other individuals. He felt that it is time to look at healthcare as costs will continue to escalate. He noted that there are a number of Americans still without healthcare insurance, and are experiencing personal tragedies, bankruptcies and other issues. If the Council was to endorse SB840 this evening, he would agree to take the endorsement to the legislature himself, and would agree to meet with the Governor, if possible, as this is an important issue that needs to move forward.

Action: *Council Member Grzan made a motion to **adopt** a resolution expressing support for Senate Bill, SB840, the California Healthcare Insurance Bill; urging the State Legislature and the Governor to support SB840. The motion failed for the lack of a second.*

Council Member Lee clarified that she was not stating that there should not be a change in the way healthcare is administered. She is stating that at this time, she needs additional information as she does not know if SB840 is the answer. Therefore, she could not support the motion.

Council Member Sellers requested that the tape on this matter be made available to the City so that it can be aired on the public television channel(s).

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

City Council Action

CLOSED SESSION:

City Attorney Kern announced the below listed closed session item.

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority:	Government Code Sections 54956.9(b) & (c)
Number of Potential Cases:	1

OPPORTUNITY FOR PUBLIC COMMENT

Mayor Tate opened the closed session to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor Tate adjourned the meeting to closed session at 9:47 p.m.

RECONVENE

Mayor Tate reconvened the meeting at 9:54 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney Kern announced that no reportable action was taken in closed session.

ADJOURNMENT

There being no further business, Mayor/Chairman Tate adjourned the meeting at 9:55 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY